

PCT/PEA/409

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INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

REC'D 30 JUL 2004



Applicant's or agent's file reference P26698PC00/NBL	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/NL 03/0307	International filing date (day/month/year) 24.04.2003	Priority date (day/month/year) 26.04.2002
International Patent Classification (IPC) or both national classification and IPC B65D43/16		
Applicant AKZO NOBEL COATINGS INTERNATIONAL B.V.		

- This International preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
- This REPORT consists of a total of 5 sheets, including this cover sheet.

☐ This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

 These annexes consist of a total of sheets.

- This report contains indications relating to the following items:
 - ☒ Basis of the opinion
 - ☐ Priority
 - ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
 - ☐ Lack of unity of invention
 - ☒ Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
 - ☐ Certain documents cited
 - ☐ Certain defects in the international application
 - ☐ Certain observations on the international application

Date of submission of the demand 10.11.2003	Date of completion of this report 29.07.2004
Name and mailing address of the international preliminary examining authority:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465	Authorized Officer Balz, O Telephone No. +49 89 2399-7218 

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No. PCT/NL 03/00307

I. Basis of the report

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17)*):

Description, Pages

1-13 as originally filed

Claims, Numbers

1-24 as originally filed

Drawings, Sheets

1/10-10/10 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:
- ☐ the claims, Nos.:
- ☐ the drawings, sheets:

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5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)

6. Additional observations, if necessary:

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	1-24
	No: Claims	
Inventive step (IS)	Yes: Claims	3,
	No: Claims	1,2,4-11-24
Industrial applicability (IA)	Yes: Claims	1-24
	No: Claims	

2. Citations and explanations

see separate sheet

Re Item V

Reasoned statement with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Reference is made to the following document/s/:

- D1: US-A-6 102 235 (STERN MAX M ET AL) 15 August 2000 (2000-08-15) cited in the application
- D2: US-A-3 412 890 (RICH PHILIP J) 26 November 1968 (1968-11-26)
- D3: GB-A-1 215 427 (GROWTH INTERNATIONAL INDUSTRIES, CORP.) 9 December 1970 (1970-12-09)
- D4: WO 01 44058 A (DOUBLE H PLASTICS INC ;HELMS CHARLES R (US)) 21 June 2001 (2001-06-21)

2. D1 discloses a packaging for a substance which is applied to a base using a roller or the like, such as paint, which packaging comprises:
- a container (13) for the substance , with an open top side and
 - a plastic lid (1) on the top side of the container which lid comprises:
 - a first covering part (21) and a second covering part (3)
 - the first covering part being provided on the underside with a substance-distributing profile (31) and
 - it being possible for the first covering part to be pivoted open about a hinge (41), which is located between the first covering part and the second covering part, in such a manner that, to use the substance distributing profile, the first covering part can be positioned at an angle with respect to the second covering part, which remains connected to the container [...].

The skilled person would be confronted with the problem of facilitating the manufacture of the lid and he would therefore form the lid integrally from plastic by injection moulding. This is a well known production method and e.g. disclosed for such a lid by D2. The leaktightness is implicitly disclosed by the material and the seal in D2. The subject-matter of claim 1 does therefore not involve an inventive step (Article 33(3) PCT).

3. D2 discloses a protective rim on the underside of the first covering part which interacts with parts if the side walls. Thus the subject-matter of claims 4 and 6 do not involve an inventive step.

Even the fact that the rim is u-shaped (as claimed in claim 5) can not be

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considered as involving an inventive step as this is well known for the person skilled in the art (e.g. D3, fig.3)

4. It is well known for the skilled person to provide a projecting rim on the top side and a receiving space at the base of the container in order to stack the container (e.g. D4). Thus claims 16-19 are not involving an inventive step.
5. The technical features of claims 2, 7-17 and 20-24 are either known from at least one of the documents or constructive details well known for the skilled person.
6. The combination of the features of dependent claim 3 (projection which acts as a seal) is neither known from, or rendered obvious by, the available prior art. The problem solved by the projection is to improve the sealing and the leaktightness of the container. Thus the packaging according to claim 3 meet the requirements of the PCT with respect to novelty and inventive step.